



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 9, 2019

Mr. Evaristo Garcia, Jr.  
Assistant City Attorney  
City of McAllen  
P.O. Box 220  
McAllen, Texas 78505 0220

OR2019-28312

Dear Mr. Garcia:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 790331 (PIR W028772-072519).

The City of McAllen (the "city") received a request for eight categories of information pertaining to use of force incidents, complaints filed by citizens, as well as the department's policy manual, and a particular contract. You state the city has released some information. You state the city has no information responsive to a portion of the request.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You inform us, and we acknowledge, the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2017-12845 (2017). In that ruling, we determined the city (1) may continue to rely on Open Records Letter No. 2015-01688 as a previous determination and withhold or release the identical information in accordance with that ruling; (2) may withhold the information we marked under section 552.108(b)(1) of the Government Code; and (3) must release the

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<sup>1</sup> The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

remaining information. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, the city may rely on Open Records Letter No. 2017-12845 as a previous determination and withhold or release the identical information in accordance with that ruling.<sup>2</sup> See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/jxd

Ref: ID# 790331

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup> As we are able to make this determination, we need not address the arguments against disclosure of this information.